



Community Housing Development Organization (CHDO) Certification Application

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Section I. Community Housing Development Organizations (CHDO)

**Guidelines, Policies and Procedures
Under the HOME Program**

I. INTRODUCTION

The Department of Housing (DOH) has implemented policies and procedures to serve as a guideline for activities associated with Community Housing Development Organizations (CHDO). For purposes of the HOME Program, DOH may be referred to as the Participating Jurisdiction (PJ) which means a jurisdiction that has been so designated by HUD to administer HOME funds in accordance with 24 CFR Part 92. The 2013 HOME Rule contains new provisions and changes that impact CHDO certification and allocation of CHDO reservation funds. CHDO set-aside funds must be committed to specific projects; DOH can no longer “reserve” CHDO funds for projects that will be identified at a later date. [*§92.2 Commitment, §92.300(a)(1)*]

In addition, the 2013 HOME Rule makes substantive changes to the CHDO qualification and capacity requirements that are intended to strengthen performance in producing and preserving affordable housing. These changes are outlined below.

- To qualify as a CHDO, a nonprofit must have paid staff whose experience qualifies them to undertake CHDO set-aside activities. Capacity cannot be demonstrated by use of a consultant, except in the first year that a CHDO becomes certified. [*§92.2 Community housing development organization*]
- Each time DOH commits HOME funds, it must re-certify a nonprofit’s qualifications to be a CHDO and its capacity to own, sponsor, or develop housing. [*§92.300(a)*]
- The roles of owner, developer, and sponsor for CHDOs using set-aside funds are more specifically defined. Among other changes, the 2013 Rule permits a DOH to provide CHDO set-aside funds for a CHDO that owns rental housing that it does not develop. [*§92.300(a)(2) – (6)*]

References to sections of the CHDO guidelines are based on the HOME Investment Partnerships Program, Final Rule 24 CFR Part 92.

II. What is a CHDO?

A Community Housing Development Organization (CHDO) is a private nonprofit, community-based service organization that has paid staff whose experience qualifies them to undertake the proposed CHDO set-aside activity. CHDOs must meet certain requirements:

A. **Legal Status** – CHDOs must be organized under State and local law.

1. **Nonprofit Status:** A CHDO must have received a tax-exempt ruling from the IRS under Section 501(c) of the Internal Revenue Code of 1986 in order to be designated by the Participating Jurisdiction (PJ) as CHDO. There are many incorporation options under Section 501(c), depending on the type and purpose of the organization seeking the designation for tax-exemption.
2. The 501(c) designations permissible under HOME are:
 - a. 501(c)(3) status – A charitable, nonprofit corporation
 - b. 501(c)(4) status – A community or civic organization
 - c. Section 905 status – A subordinate organization of a 501(c) organization

- B. **Organizational Structure** – The CHDO is intended to respond to a particular community’s needs. The organizational structure of the board of directors of a CHDO is the main indicator of community control over the CHDO.

The CHDO board must be composed of the following:

1. At least one-third must be representatives of the low-income community.
 2. No more than one-third may be public officials or employees of the PJ or State Recipient.
 3. The balance is unrestricted, and may include people such as human and social service providers, lenders, individuals with access to philanthropic resources or others willing to contribute their professional expertise.
- C. **History of Serving the Community** – A CHDO must also demonstrate that it has at least one year of experience serving the community where it intends to develop the HOME-assisted housing.
1. Newly created organizations desiring to become CHDOs can meet this requirement if the parent (or sponsoring) organization is a nonprofit and has provided services to the community for at least one year.
 2. The one-year of service does not have to be directly related to housing.
- D. **Capacity and Experience**- A CHDO must have paid staff whose experience qualifies them to undertake the proposed CHDO set-aside activity. For example, a CHDO undertaking development activities as a developer or sponsor must satisfy this requirement by having paid employees with housing development experience who will work on projects assisted with HOME funds. An organization that will own housing must demonstrate capacity to act as owner of a project and meet the requirements of §92.300(a)(2).

For its first year of funding as a CHDO, an organization may satisfy this requirement through a contract with a consultant who has housing development experience to train appropriate key staff of the organization. An applicant does not meet the test of demonstrated capacity based on any person who is a volunteer or whose services are donated by another organization.

- E. **Geographic Distribution** – All communities of the state are eligible for funding, in accordance with HOME program requirements.
- CHDOs do not need to represent a single neighborhood
 - CHDOs should have a clearly defined geographic service area. CHDOs may include in their service area an entire community (that is a city, town, village, county or multi-county area), but **not** the whole state.
 - Nonprofits serving special populations must also define the geographic boundaries of their service areas in order to qualify as CHDOs.

III. FEDERAL REQUIREMENTS

A. Resources:

Federal and State resources, which will be used during the Action Plan time frame to address the needs and strategies identified in the State’s most recent Action Plan, are found in the sections on specific programs.

A notice of funding availability will be posted on the DOH Website (www.ct.gov/doh) upon funding notification from HUD. In accordance with HOME Program requirements PJs must set aside a minimum of 15 percent of their funds for housing owned, developed or sponsored by CHDOs.

B. Activities:

The State’s methods of distributing funds and carrying out activities funded by HUD and other federal programs are described in its most recent Action Plan. With PJ approval, CHDOs may use HOME funds

for **all** eligible HOME activities. However, only certain types of activities count toward the minimum 15 percent set-aside.

- Eligible set-aside activities include the following when carried out by a CHDO acting as an owner, sponsor or developer.
 - Acquisition and/or rehabilitation or rental housing,
 - New construction of rental housing,
 - Acquisition and/or rehabilitation of homebuyer properties,
 - New construction of homebuyer properties, and
 - Direct financial assistance to purchasers of HOME-assisted housing sponsored or developed by a CHDO with HOME funds.
- Ineligible: The following activities are ineligible set-aside activities, but may be carried out by the CHDO as a subrecipient.
 - Tenant-based rental assistance (TBRA), (not available in Connecticut)
 - Homeowner rehabilitation, and
 - Brokering or other real estate transactions.

C. Certification Process

To be certified as a CHDO, an organization must meet certain legal and organizational characteristics described in the HOME regulations at 24 CFR Part 92.2 and have paid staff whose experience qualifies them to undertake the proposed CHDO set-aside activity. The CHDO certification process is as follows:

- a. HUD requires that CHDOs be certified or recertified each time the PJ commits CHDO funds to an activity. To be considered for CHDO set-aside funds, an applicant shall submit a CHDO Certification/ Recertification application in conjunction with an application for DOH development funds for an eligible CHDO set-aside activity.
- b. The application and all application materials **must** be submitted via electronic submission through the DOH/CHFA SharePoint website. Hard copies of application materials will not be accepted. To obtain a SharePoint account, submit an email request to applicationrequest@chfa.org. Include the following information in your request:
 - Application Round (e.g. CHDO Certification)
 - Application Name
 - Company Name
 - Primary Contact Name
 - Primary Contact Email
 - Primary Contact Phone

Applicants will subsequently receive an email from the system administrator that contains a link to the SharePoint website. SharePoint instructional videos and presentations are available on the DOH Website.

- c. DOH staff review of submission of the CHDO Application.
 - If documents are incomplete: DOH will forward a detailed letter to the nonprofit, detailing the outstanding documents necessary to obtain CHDO Certification. A deadline date will be assigned to the nonprofit. Cancellation of the CHDO Certification will occur if the nonprofit does not respond, which may affect current or future requests for federal/state funding from the Department.

- If documents are complete: DOH will forward a letter to the nonprofit acknowledging their review that the organization has successfully met the federal requirements. DOH will maintain for public record evidence that the organization has been recognized as a CHDO.

Other Federal Requirements

1. The Federal requirements set forth in 24 CFR Part 5, subpart A, are applicable to participants in the HOME program. The requirements of this subpart include: nondiscrimination and equal opportunity; disclosure requirements; debarred, suspended or ineligible contractors; and drug-free workplace.
2. The nondiscrimination requirements at section 282 are applicable.
3. Conflict of Interest Policy Requirements – When implementing their HOME program, state recipients and subrecipients must adhere to Conflict-of-Interest regulations outlined in 24 CFR 92.356(f).
4. Organization's Procurement Standards – Each owner/developer must implement requirements 24 CFR 85.36, 2 CFR 200, and CPD 96-05.
5. Federal Debarred Contractor's List - HOME funds may not be used to directly or indirectly employ, award contracts to, or otherwise engage the services of any contractor or subrecipient during any period of debarment, suspension, or placement of ineligibility status. Nonprofits should check all contractors, subcontractors, and subrecipients against the Federal publication that lists debarred and ineligible contractors.

A list of debarred contractors can be found on the Excluded Parties Listing System (<http://www.sam.gov>). For a better understanding of what constitutes debarment, suspension, or ineligibility status, PJs or subrecipient can look to 24 CFR Part 24.

6. Organizations must be in compliance with 24 CFR Part 58: nondiscrimination and equal access, employment and contracting, environmental requirements, lead-based paint, and relocation.



Section II. Community Housing Development Organizations (CHDO)

CHDO Set-Aside Resources SFY2016

As of October 6, 2015

Prior Year Carryover	\$79,006
FFY 2015	\$932,296
TOTAL	\$1,011,302



Section III. CHDO Regulatory Highlights (24 CFR Part 92)

§92.300 Set-aside for community housing development organizations (CHDOs).

(a) Within 24 months after the date that HUD notifies the participating jurisdiction of HUD's execution of the HOME Investment Partnerships Agreement, the participating jurisdiction must reserve not less than 15 percent of the HOME allocation for investment only in housing to be owned, developed or sponsored by community housing development organizations. For a State, the HOME allocation includes funds reallocated under §92.451(c)(2)(i) and, for a unit of general local government, includes funds transferred from a State under §92.102(b). The participating jurisdiction must certify the organization as meeting the definition of "community housing development organization" and must document that the organization has capacity to own, develop, or sponsor housing each time it commits funds to the organization. For purposes of this paragraph:

(1) Funds are reserved when a participating jurisdiction enters into a written agreement with the community housing development organization (or project owner as described in paragraph (a)(4) of this section) committing the funds to a specific local project in accordance with paragraph (2) of the definition of "commitment" in §92.2.

(2) Rental housing is "owned" by the community housing development organization if the community housing development organization is the owner in fee simple absolute of multifamily or single family housing (or has a long term ground lease) for rental to low-income families in accordance with §92.252. If the housing is to be rehabilitated or constructed, the community housing development organization hires and oversees the developer that rehabilitates or constructs the housing. At minimum, the community housing development organization must hire or contract with an experienced project manager to oversee all aspects of the development, including obtaining zoning, securing non-HOME financing, selecting a developer or general contractor, overseeing the progress of the work and determining the reasonableness of costs. The community housing development organization must own the rental housing during development and for a period at least equal to the period of affordability in §92.252. If the CHDO acquires housing that meets the property standards in §92.251, the CHDO must own the rental housing for a period at least equal to the period of affordability in §92.252.

(3) Rental housing is "developed" by the community development housing organization if the community housing development organization is the owner of multifamily or single family housing in fee simple absolute (or has a long term ground lease) and the developer of new housing that will be constructed or existing substandard housing that will be rehabilitated for rent to low-income families in accordance with §92.252. To be the "developer," the community development housing organization must be in sole charge of all aspects of the development process, including obtaining zoning, securing non-HOME financing, selecting architects, engineers and general contractors, overseeing the progress of the work and determining the reasonableness of costs. At a minimum, the community housing development organization must own the housing during development and for a period at least equal to the period of affordability in §92.252.

(4) Rental housing is "sponsored" by the community development housing organization if it is rental housing "owned" or "developed" by a subsidiary of a community housing development organization, a limited partnership of which the community housing development organization or its subsidiary is the sole general partner, or a limited liability company of which the community housing development organization or its subsidiary is the sole managing member.

(i) The subsidiary of the community housing development organization may be a for-profit or nonprofit organization and must be wholly owned by the community housing development organization. If the limited partnership or limited liability company agreement permits the community housing development organization to be removed as general partner or sole managing member, the agreement must provide that the removal must be for cause and that the community housing development organization must be replaced with another community housing development organization.

(ii) The HOME funds must be provided to the entity that owns the project.

(5) HOME-assisted rental housing is also “sponsored” by a community housing development organization if the community housing development organization “developed” the rental housing project that it agrees to convey to an identified private nonprofit organization at a predetermined time after completion of the development of the project. Sponsored rental housing, as provided in this paragraph (a)(5), is subject to the following requirements:

(i) The private nonprofit organization may not be created by a governmental entity.

(ii) The HOME funds must be invested in the project that is owned by the community housing development organization.

(iii) Before commitment of HOME funds, the community housing development organization sponsor must select the nonprofit organization that will obtain ownership of the property.

(A) The nonprofit organization assumes the community housing development organization's HOME obligations (including any repayment of loans) for the rental project at a specified time after completion of development.

(B) If the housing is not transferred to the nonprofit organization, the community housing development organization sponsor remains responsible for the HOME assistance and the HOME project.

(6) Housing for homeownership is “developed” by the community development housing organization if the community housing development organization is the owner (in fee simple absolute) and developer of new housing that will be constructed or existing substandard housing that will be rehabilitated for sale to low-income families in accordance with §92.254.

(i) To be the “developer” the community development housing organization must arrange financing of the project and be in sole charge of construction. The community housing development organization may provide direct homeownership assistance (e.g., downpayment assistance) when it sells the housing to low-income families and the community housing development organization will not be considered a subrecipient. The HOME funds for downpayment assistance shall not be greater than 10 percent of the amount of HOME funds for development of the housing.

(ii) The participating jurisdiction must determine and set forth in its written agreement with the community housing development organization the actual sales prices of the housing or the method by which the sales prices for the housing will be established and whether the proceeds must be returned to the participating jurisdiction or may be retained by the community housing development organization.

(A) While proceeds that the participating jurisdiction permits the community housing development organization to retain are not subject to the requirements of this part, the participating jurisdiction must specify in the written agreement with the community housing development organization whether the proceeds are to be used for HOME-eligible activities or other housing activities to benefit low-income families.

(B) Funds that are recaptured because the housing no longer meets the affordability requirements under §92.254(a)(5)(ii) are subject to the requirements of this part in accordance with §92.503.

(7) The participating jurisdiction determines the form of assistance (e.g., grant or loan) that it will provide to the community housing development organization receives or, for rental housing projects under paragraph (a)(4) of this section, to the entity that owns the project.

(b) Each participating jurisdiction must make reasonable efforts to identify community housing development organizations that are capable, or can reasonably be expected to become capable, of carrying out elements of the jurisdiction's approved consolidated plan and to encourage such community housing development organizations to do so. If during the first 24 months of its participation in the HOME Program a participating jurisdiction cannot identify a sufficient number of capable community housing development organizations, up to 20 percent of the minimum community housing development

organization set aside of 15 percent specified in paragraph (a) of this section, above, (but not more than \$150,000 during the 24 month period) may be committed to develop the capacity of community housing development organizations in the jurisdiction.

(c) Up to 10 percent of the HOME funds reserved under this section may be used for activities specified under §92.301.

(d) HOME funds required to be reserved under this section are subject to reduction, as provided in §92.500(d).

(e) If funds for operating expenses are provided under §92.208 to a community housing development organization that is not also receiving funds under paragraph (a) of this section for housing to be owned, developed or sponsored by the community housing development organization, the participating jurisdiction's written agreement with the community housing development organization must provide that the community housing development organization is expected to receive funds under paragraph (a) of this section for a project within 24 months of the date of receiving the funds for operating expenses, and specifies the terms and conditions upon which this expectation is based.

(f) The participating jurisdiction must ensure that a community housing development organization does not receive HOME funding for any fiscal year in an amount that provides more than 50 percent or \$50,000, whichever is greater, of the community housing development organization's total operating expenses in that fiscal year. This also includes organizational support and housing education provided under section 233(b)(1), (2), and (6) of the Act, as well as funds for operating expenses provided under §92.208.

[61 FR 48750, Sept. 16, 1996, as amended at 62 FR 28930, May 28, 1997; 78 FR 44677, July 24, 2013]

§92.301 Project-specific assistance to community housing development organizations.

(a) *Project-specific technical assistance and site control loans*—(1) *General.* Within the percentage specified in §92.300(c), HOME funds may be used by a participating jurisdiction to provide technical assistance and site control loans to community housing development organizations in the early stages of site development for an eligible project. These loans may not exceed amounts that the participating jurisdiction determines to be customary and reasonable project preparation costs allowable under paragraph (a)(2) of this section. All costs must be related to a specific eligible project or projects.

(2) *Allowable costs.* A loan may be provided to cover project costs necessary to determine project feasibility (including costs of an initial feasibility study), consulting fees, costs of preliminary financial applications, legal fees, architectural fees, engineering fees, engagement of a development team, option to acquire property, site control and title clearance. General operational expenses of the community housing development organization are not allowable costs.

(3) *Repayment.* The community housing development organization must repay the loan to the participating jurisdiction from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in part or in whole, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the borrower.

(b) *Project-specific seed money loans*—(1) *General.* Within the percentage specified in §92.300(c), HOME funds may be used to provide loans to community housing development organizations to cover preconstruction project costs that the participating jurisdiction determines to be customary and reasonable, including, but not limited to the costs of obtaining firm construction loan commitments, architectural plans and specifications, zoning approvals, engineering studies, and legal fees.

(2) *Eligible sponsors.* A loan may be provided only to a community housing development organization that has, with respect to the project concerned, site control (evidenced by a deed, a sales

contract, or an option contract to acquire the property), a preliminary financial commitment, and a capable development team.

(3) *Repayment.* The community housing development organization must repay the loan to the participating jurisdiction from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in whole or in part, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the community housing development organization.

§92.302 Housing education and organizational support.

HUD is authorized to provide education and organizational support assistance, in conjunction with HOME funds made available to community housing development organizations in accordance with section 233 of the Act. HUD will publish a notice in the FEDERAL REGISTER announcing the availability of funding under this section, as appropriate. The notice need not include funding for each of the eligible activities, but may target funding from among the eligible activities.

§92.303 Tenant participation plan.

A community housing development organization that receives assistance under this part must adhere to a fair lease and grievance procedure approved by the participating jurisdiction and provide a plan for and follow a program of tenant participation in management decisions.

§92.350 Other Federal requirements and nondiscrimination.

(a) The Federal requirements set forth in 24 CFR part 5, subpart A, are applicable to participants in the HOME program. The requirements of this subpart include: nondiscrimination and equal opportunity; disclosure requirements; debarred, suspended or ineligible contractors; and drug-free workplace.

(b) The nondiscrimination requirements at section 282 of the Act are applicable. These requirements are waived in connection with the use of HOME funds on lands set aside under the Hawaiian Homes Commission Act, 1920 (42 Stat. 108).

§92.351 Affirmative marketing; minority outreach program.

(a) *Affirmative marketing.* (1) Each participating jurisdiction must adopt and follow affirmative marketing procedures and requirements for rental and homebuyer projects containing five or more HOME-assisted housing units. Affirmative marketing requirements and procedures also apply to all HOME-funded programs, including, but not limited to, tenant-based rental assistance and downpayment assistance programs. Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status, or disability. If participating jurisdiction's written agreement with the project owner permits the rental housing project to limit tenant eligibility or to have a tenant preference in accordance with §92.253(d)(3), the participating jurisdiction must have affirmative marketing procedures and requirements that apply in the context of the limited/preferred tenant eligibility for the project.

(2) The affirmative marketing requirements and procedures adopted must include:

(i) Methods for informing the public, owners, and potential tenants about Federal fair housing laws and the participating jurisdiction's affirmative marketing policy (e.g., the use of the Equal Housing Opportunity logotype or slogan in press releases and solicitations for owners, and written communication to fair housing and other groups);

(ii) Requirements and practices each subrecipient and owner must adhere to in order to carry out the participating jurisdiction's affirmative marketing procedures and requirements (e.g., use of commercial

media, use of community contacts, use of the Equal Housing Opportunity logotype or slogan, and display of fair housing poster);

(iii) Procedures to be used by subrecipients and owners to inform and solicit applications from persons in the housing market area who are not likely to apply for the housing program or the housing without special outreach (e.g., through the use of community organizations, places of worship, employment centers, fair housing groups, or housing counseling agencies);

(iv) Records that will be kept describing actions taken by the participating jurisdiction and by subrecipients and owners to affirmatively market the program and units and records to assess the results of these actions; and

(v) A description of how the participating jurisdiction will annually assess the success of affirmative marketing actions and what corrective actions will be taken where affirmative marketing requirements are not met.

(3) A State that distributes HOME funds to units of general local government must require each unit of general local government to adopt affirmative marketing procedures and requirements that meet the requirement in paragraphs (a) and (b) of this section.

(b) *Minority outreach.* A participating jurisdiction must prescribe procedures acceptable to HUD to establish and oversee a minority outreach program within its jurisdiction to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, including, without limitation, real estate firms, construction firms, appraisal firms, management firms, financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts entered into by the participating jurisdiction with such persons or entities, public and private, in order to facilitate the activities of the participating jurisdiction to provide affordable housing authorized under this Act or any other Federal housing law applicable to such jurisdiction. Section 85.36(e) of this title describes actions to be taken by a participating jurisdiction to assure that minority business enterprises and women business enterprises are used when possible in the procurement of property and services.

§92.353 Displacement, relocation, and acquisition.

(a) *Minimizing displacement.* Consistent with the other goals and objectives of this part, the participating jurisdiction must ensure that it has taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted with HOME funds. To the extent feasible, residential tenants must be provided a reasonable opportunity to lease and occupy a suitable, decent, safe, sanitary, and affordable dwelling unit in the building/complex upon completion of the project.

(b) *Temporary relocation.* The following policies cover residential tenants who will not be required to move permanently but who must relocate temporarily for the project. Such tenants must be provided:

(1) Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and any increase in monthly rent/utility costs.

(2) Appropriate advisory services, including reasonable advance written notice of:

(i) The date and approximate duration of the temporary relocation;

(ii) The location of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period;

(iii) The terms and conditions under which the tenant may lease and occupy a suitable, decent, safe, and sanitary dwelling in the building/complex upon completion of the project; and

(iv) The provisions of paragraph (b)(1) of this section.

(c) *Relocation assistance for displaced persons*—(1) *General*. A displaced person (defined in paragraph (c)(2) of this section) must be provided relocation assistance at the levels described in, and in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4201-4655) and 49 CFR part 24. A “displaced person” must be advised of his or her rights under the Fair Housing Act and, if the comparable replacement dwelling used to establish the amount of the replacement housing payment to be provided to a minority person is located in an area of minority concentration, the minority person also must be given, if possible, referrals to comparable and suitable, decent, safe, and sanitary replacement dwellings not located in such areas.

(2) *Displaced Person*. (i) For purposes of paragraph (c) of this section, the term *displaced person* means a person (family individual, business, nonprofit organization, or farm, including any corporation, partnership or association) that moves from real property or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project assisted with HOME funds. This includes any permanent, involuntary move for an assisted project, including any permanent move from the real property that is made:

(A) After notice by the owner to move permanently from the property, if the move occurs on or after:

(1) The date of the submission of an application to the participating jurisdiction or HUD, if the applicant has site control and the application is later approved; or

(2) The date the jurisdiction approves the applicable site, if the applicant does not have site control at the time of the application; or

(B) Before the date described in paragraph (c)(2)(i)(A) of this section, if the jurisdiction or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the project; or

(C) By a tenant-occupant of a dwelling unit, if any one of the following three situations occurs:

(1) The tenant moves after execution of the agreement covering the acquisition, rehabilitation, or demolition and the move occurs before the tenant is provided written notice offering the tenant the opportunity to lease and occupy a suitable, decent, safe, and sanitary dwelling in the same building/complex upon completion of the project under reasonable terms and conditions. Such reasonable terms and conditions must include a term of at least one year at a monthly rent and estimated average monthly utility costs that do not exceed the greater of:

(i) The tenant's monthly rent before such agreement and estimated average monthly utility costs; or

(ii) The total tenant payment, as determined under 24 CFR 5.628, if the tenant is low-income, or 30 percent of gross household income, if the tenant is not low-income;

(2) The tenant is required to relocate temporarily, does not return to the building/complex, and either

(i) The tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation; or

(ii) Other conditions of the temporary relocation are not reasonable; or

(3) The tenant is required to move to another dwelling unit in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move, or other conditions of the move are not reasonable.

(ii) Notwithstanding paragraph (c)(2)(i) of this section, a person does not qualify as a *displaced person* if:

(A) The person has been evicted for cause based upon a serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable federal, State or local law, or other good cause, and the participating jurisdiction determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance. The effective date of any termination or refusal to renew must be preceded by at least 30 days advance written notice to the tenant specifying the grounds for the action.

(B) The person moved into the property after the submission of the application but, before signing a lease and commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated, incur a rent increase), and the fact that the person would not qualify as a “displaced person” (or for any assistance under this section) as a result of the project;

(C) The person is ineligible under 49 CFR 24.2(g)(2); or

(D) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

(iii) The jurisdiction may, at any time, ask HUD to determine whether a displacement is or would be covered by this rule.

(3) *Initiation of negotiations.* For purposes of determining the formula for computing replacement housing assistance to be provided under paragraph (c) of this section to a tenant displaced from a dwelling as a direct result of private-owner rehabilitation, demolition or acquisition of the real property, the term *initiation of negotiations* means the execution of the agreement covering the acquisition, rehabilitation, or demolition.

(d) *Optional relocation assistance.* The participating jurisdiction may provide relocation payments and other relocation assistance to families, individuals, businesses, nonprofit organizations, and farms displaced by a project assisted with HOME funds where the displacement is not subject to paragraph (c) of this section. The jurisdiction may also provide relocation assistance to persons covered under paragraph (c) of this section beyond that required. For any such assistance that is not required by State or local law, the jurisdiction must adopt a written policy available to the public that describes the optional relocation assistance that it has elected to furnish and provides for equal relocation assistance within each class of displaced persons.

(e) *Residential antidisplacement and relocation assistance plan.* The participating jurisdiction shall comply with the requirements of 24 CFR part 42, subpart C.

(f) *Real property acquisition requirements.* The acquisition of real property for a project is subject to the URA and the requirements of 49 CFR part 24, subpart B.

(g) *Appeals.* A person who disagrees with the participating jurisdiction's determination concerning whether the person qualifies as a displaced person, or the amount of relocation assistance for which the person may be eligible, may file a written appeal of that determination with the jurisdiction. A low-income person who is dissatisfied with the jurisdiction's determination on his or her appeal may submit a written request for review of that determination to the HUD Field Office.

§92.354 Labor.

(a) *General.* (1) Every contract for the construction (rehabilitation or new construction) of housing that includes 12 or more units assisted with HOME funds must contain a provision requiring the payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 3141), to all laborers and mechanics employed in the development of any part of the housing. Such contracts must also be subject to the overtime provisions, as applicable, of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701).

(2) The contract for construction must contain these wage provisions if HOME funds are used for any project costs in §92.206, including construction or nonconstruction costs, of housing with 12 or more HOME-assisted units. When HOME funds are only used to assist homebuyers to acquire single-family housing, and not for any other project costs, the wage provisions apply to the construction of the housing if there is a written agreement with the owner or developer of the housing that HOME funds will be used to assist homebuyers to buy the housing and the construction contract covers 12 or more housing units to be purchased with HOME assistance. The wage provisions apply to any construction contract that includes a total of 12 or more HOME-assisted units, whether one or more than one project is covered by the construction contract. Once they are determined to be applicable, the wage provisions must be contained in the construction contract so as to cover all laborers and mechanics employed in the development of the entire project, including portions other than the assisted units. Arranging multiple construction contracts within a single project for the purpose of avoiding the wage provisions is not permitted.

(3) Participating jurisdictions, contractors, subcontractors, and other participants must comply with regulations issued under these acts and with other Federal laws and regulations pertaining to labor standards, as applicable. Participating jurisdictions shall be responsible for ensuring compliance by contractors and subcontractors with labor standards described in this section. In accordance with procedures specified by HUD, participating jurisdictions shall:

(i) Ensure that bid and contract documents contain required labor standards provisions and the appropriate Department of Labor wage determinations;

(ii) Conduct on-site inspections and employee interviews;

(iii) Collect and review certified weekly payroll reports;

(iv) Correct all labor standards violations promptly;

(v) Maintain documentation of administrative and enforcement activities; and

(vi) Require certification as to compliance with the provisions of this section before making any payment under such contracts.

(b) *Volunteers.* The prevailing wage provisions of paragraph (a) of this section do not apply to an individual who receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and who is not otherwise employed at any time in the construction work. See 24 CFR part 70.

(c) *Sweat equity.* The prevailing wage provisions of paragraph (a) of this section do not apply to members of an eligible family who provide labor in exchange for acquisition of a property for homeownership or provide labor in lieu of, or as a supplement to, rent payments.

§92.355 Lead-based paint.

Housing assisted with HOME funds is subject to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, J, K, M and R of this title.

[64 FR 50224, Sept. 15, 1999]

§92.356 Conflict of interest.

(a) *Applicability.* In the procurement of property and services by participating jurisdictions, State recipients, and subrecipients, the conflict of interest provisions in 24 CFR 85.36 and 24 CFR 84.42, respectively, apply. In all cases not governed by 24 CFR 85.36 and 24 CFR 84.42, the provisions of this section apply.

(b) *Conflicts prohibited.* No persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to activities assisted with HOME funds or who are in a position to participate in a decision-making process or gain inside information with regard to these activities may obtain a financial interest or financial benefit from a HOME-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to the HOME-assisted activity, or the proceeds from such activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. Immediate family ties include (whether by blood, marriage or adoption) the spouse, parent (including a stepparent), child (including a stepchild), brother, sister (including a stepbrother or stepsister), grandparent, grandchild, and in-laws of a covered person.

(c) *Persons covered.* The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the participating jurisdiction, State recipient, or subrecipient which are receiving HOME funds.

(d) *Exceptions: Threshold requirements.* Upon the written request of the participating jurisdiction, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it determines that the exception will serve to further the purposes of the HOME Investment Partnerships Program and the effective and efficient administration of the participating jurisdiction's program or project. An exception may be considered only after the participating jurisdiction has provided the following:

- (1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
- (2) An opinion of the participating jurisdiction's or State recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(e) *Factors to be considered for exceptions.* In determining whether to grant a requested exception after the participating jurisdiction has satisfactorily met the requirements of paragraph (d) of this section, HUD will consider the cumulative effect of the following factors, where applicable:

- (1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;
- (2) Whether the person affected is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
- (3) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking process with respect to the specific assisted activity in question;

(4) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (c) of this section;

(5) Whether undue hardship will result either to the participating jurisdiction or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(6) Any other relevant considerations.

(f) *Owners and developers.* (1) No owner, developer, or sponsor of a project assisted with HOME funds (or officer, employee, agent, elected or appointed official, or consultant of the owner, developer, or sponsor or immediate family member or immediate family member of an officer, employee, agent, elected or appointed official, or consultant of the owner, developer, or sponsor) whether private, for-profit or nonprofit (including a community housing development organization (CHDO) when acting as an owner, developer, or sponsor) may occupy a HOME-assisted affordable housing unit in a project during the required period of affordability specified in §92.252(e) or §92.254(a)(4). This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker.

(2) *Exceptions.* Upon written request of a housing owner or developer, the participating jurisdiction (or State recipient, if authorized by the State participating jurisdiction) may grant an exception to the provisions of paragraph (f)(1) of this section on a case-by-case basis when it determines that the exception will serve to further the purposes of the HOME program and the effective and efficient administration of the owner's or developer's HOME-assisted project. In determining whether to grant a requested exception, the participating jurisdiction shall consider the following factors:

(i) Whether the person receiving the benefit is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted housing, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(ii) Whether the person has withdrawn from his or her functions or responsibilities, or the decisionmaking process with respect to the specific assisted housing in question;

(iii) Whether the tenant protection requirements of §92.253 are being observed;

(iv) Whether the affirmative marketing requirements of §92.351 are being observed and followed; and

(v) Any other factor relevant to the participating jurisdiction's determination, including the timing of the requested exception.

§92.358 Consultant activities.

No person providing consultant services in an employer-employee type relationship shall receive more than a reasonable rate of compensation for personal services paid with HOME funds. In no event, however, shall such compensation exceed the limits in effect under the provisions of any applicable statute (e.g., annual HUD appropriations acts which have set the limit at the equivalent of the daily rate paid for Level IV of the Executive Schedule, see the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, Pub. L. 104-204 (September 26, 1996)). Such services shall be evidenced by written agreements between the parties which detail the responsibilities, standards, and compensation. Consultant services provided under an independent contractor relationship are not subject to the compensation limitation of Level IV of the Executive Schedule.



Section IV. Community Housing Development Organizations (CHDO) Certification

QUALIFYING CRITERIA

OVERVIEW

A CHDO is a specific type of private nonprofit entity. CHDOs must meet certain requirements pertaining to their:

- A. Legal status
- B. Organizational structure, and
- C. Capacity and experience.

A. Legal Status: CHDO'S must be organized under State and local law.

The items listed on this checklist must be evidenced in the CHDOs:

Charter, or

Articles of Incorporation, or

By-laws

Purpose of organization: Provision of decent housing that is affordable to low-and-moderate-income persons must be among the purposes of the organization.

No individual benefit: No part of the CHDO's net earnings (profits) may benefit any members, founders, contributors, or individuals.

Clearly defined service area: A CHDO should have a clearly defined geographic service area.

CHDOs do not need to represent a single neighborhood.

A CHDO may include in its service area an entire community (that is, a city, town, village, county or multi-county area), but not the whole state.

Nonprofits serving special populations must also define the geographic boundaries of their service areas in order to qualify as CHDOs.

Nonprofit Status: A CHDO must have received a tax-exempt ruling from the IRS under Section 501(c) of the Internal Revenue Code of 1986 in order to be designated by the Participating Jurisdiction (PJ) as a CHDO. There are many incorporation options under Section 501(c), depending on the type and purpose of the organization seeking the designation for tax-exemption.

The 501(c) designations permissible under HOME are:

501(c)(3) status – A charitable, nonprofit corporation;

501(c)(4) status – A community or civic organization;

Section 905 statuses – A subordinate organization of a 501(c) organization.

B. Organizational Structure:

The CHDO is intended to respond to a particular community's needs. Therefore, the structure of the board of directors of a CHDO is viewed as the main indicator of community control over the CHDO.

The CHDO board must be composed as follows:

At least one-third may be representatives of the low-income community.

No more than one-third may be representatives of the public sector (including any employees of the PJ).

The balance is unrestricted, and may include people such as human and social service providers, lenders, individuals with access to philanthropic resources, or others willing to contribute their professional expertise.

There are also maximum limits on representation and control by a for-profit entity when the CHDO is sponsored by a for-profit entity.

Low-Income Community Representation: As noted above, a minimum of one-third of the board must consist of representatives of the low-income community. There are three ways to meet this requirement:

1. Residents of Low-Income Neighborhoods In The Community:

Low-income neighborhoods are defined as neighborhoods where 51 percent or more of the residents are low-income.

Residents of low-income neighborhoods on CHDO boards do not have to be low-income themselves.

and/or

2. Low-Income Residents Of The Community:

In urban areas "community" is not necessarily limited to a single neighborhood, but includes several neighborhoods the city, county or metropolitan area.

In rural areas, "community" may also cover a multi-county area (but not the whole state). The board need not include low-income residents from each county in the multi-county area.

Low-income residents of low-income neighborhoods in the community do not need to submit proof of their income.

If low-income residents of the community who do not live in low-income neighborhood are necessary to meet this threshold, the CHDO must obtain a certification from the resident that

the resident does qualify as low-income. No PJ verification of the CHDO certification of income is required.

and/or

3. Elected Representatives of Low-Income Neighborhood Organizations:

A low-income neighborhood organization is an organization composed primarily of residents of a low-income neighborhood.

The primary purpose of the organization must be to serve the interests of the neighborhood residents.

Block groups, town watch organizations, civic associations, neighborhood church groups and Neighborhood Works organizations can be examples of low-income neighborhood organizations.

The governing body of the low-income neighborhood organization may elect the representative(s) to serve on the CHDO board.

Requirement for low-income input: Input from the low-income community is not met solely by having low-income representation on the board.

The CHDO must also provide a formal process for low-income program beneficiaries to advise the CHDO on design, location of sites, development and management of affordable housing. The process must be described in writing, and must be included in the organizations by-laws or a board resolution.

This requirement is especially important for CHDO's serving a large geographic area, where it may not be possible for a CHDO to have low-income board representation from every neighborhood in which the CHDO will develop, own or sponsor housing.

CHDO's should establish systems for community involvement in parts of their service areas where housing will be developed, but which are not represented on their boards. Such systems might include special committees of neighbors of a proposed development site, neighborhood advisory councils or open town meetings.

Public-sector Limits: A maximum of one-third of the governing board may consist of representatives of the public sector. This limitation is intended to ensure that separation exists between Participating Jurisdictions (PJ) and CHDO's and that the CHDO's are indeed community-based and community-controlled organizations.

A member of the governing board of a CHDO would be considered a representative of the public sector if he or she is a public official, including:

Elected Officials – Council members, aldermen, commissioners, state legislators, members of a school board etc.

Appointed Public Officials – Members of a planning or zoning commission or of any other regulatory and/or advisory boards or commissions that are appointed by a PJ official.

Public Employees – All employees of public agencies (including the schools) of departments of the PJ's government (e.g., a clerk in the water and sewer department, a public facility janitor or a secretary in the tax assessment office); or

Appointed by a Public Official – Any individual who is not necessarily a public official, but who has been appointed by a public official (as described above) to serve on the CHDO board.

Members of the board appointed by public officials cannot select other members of the board.

What if the public official is low-income? Public officials and/or appointees who themselves are either low-income community residents or residents of a low-income neighborhood count against the one-third maximum limit of *public sector* representatives. However, they do not count toward the one-third minimum requirement of community representatives.

PJs, public bodies or instrumentalities of public bodies cannot be considered CHDOs. Examples of instrumentalities of public bodies include public housing authorities (PHAs), urban renewal agencies, redevelopment authorities and downtown development authorities.

These limits on public-sector representation on CHDO boards only serve to define CHDOs. There are other (not specific to HOME) restrictions on the participation of public officials on the boards of non-profit organizations seeking public funds. PJs should observe their conflict-of-interest guidelines in this regard as well.

Nonprofits that have been sponsored by other nonprofits, charities, religious organizations, local or state government, public agencies or for-profit corporations may qualify as CHDOs, but certain additional requirements and board limitations can apply.

Nonprofit and Charity Sponsors:

There are no limits on the proportion of the board that may be appointed by nonprofit or charity sponsors, as long as the minimum one-third community representation is met and the maximum one-third public representation is not exceeded.

A one-year minimum history of service to the community by *the sponsoring nonprofit or charity* may help a new nonprofit to qualify as a CHDO.

Religious Organization Sponsors:

Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the HOME Program. Government entities are not to discriminate against an organization on the basis of the organization's religious character or affiliation.

However, organizations directly funded under HOME may not engage in inherently religious activities. If the organization conducts such activities, they must be offered separately and participation must be voluntary for the beneficiaries of the assistance provided. However, the religious organization may not control the nonprofit.

The developed housing must be used exclusively for secular purposes. It must also be ensured that housing owned, developed or sponsored by the organization will be made available to all persons, regardless of religious affiliation or belief.

Local/State Government and Public Agency Sponsors:

A local or state government and/or a public agency cannot qualify as a CHDO, but may sponsor the creation of CHDOs.

Government officials and appointees of the government cannot exceed one-third of the members of the board.

While officers and employees of the governmental entity can serve as Board members to the CHDO (subject to the one-third appointment limitation), they cannot serve as officers or employees of the CHDO.

All other CHDO rules and requirements also apply.

For-Profit Corporate Sponsors:

A CHDO cannot be controlled by, nor be under the direction of, for-profit entities or individuals seeking profit from the organization.

CHDOs may be sponsored or organized by a for-profit if:

The primary purpose of the for-profit sponsor is not the development or management of housing (that is, a builder, developer or real estate management firm may not spin off a CHDO);

The for-profit appoints no more than one-third of the CHDO's governing board and the board members appointed by the for-profit do not appoint the remaining members of the board;

While the officers and employees of the for-profit entity can serve as Board members of a CHDO (subject to the one-third appointment limitation), they cannot serve as officers or employees of the CHDO; and

The CHDO is free to contract for goods and services from any vendors it selects.

C. Capacity and Experience:

CHDO Experience: A CHDO must also demonstrate that it has at least one year of experience serving the community where it intends to develop the HOME-assisted housing.

Newly created organizations wishing to become CHDOs can meet this requirement if the parent (or sponsoring) organization is a nonprofit and has provided services to the community for at least one year.

The year of service does *not* have to be directly related to housing.

Prior service to the community cannot consist of a for-profit organization's work in that community.

CHDO Capacity: The CHDO has paid staff whose experience qualifies them to undertake CHDO set-aside activities. Capacity cannot be demonstrated by use of a consultant.

During the first year of operation as a CHDO, the CHDO capacity requirement may be met through the use of consultants, provided that the consultant trains the CHDO staff.

Differences in required experience and capacity: There are significant differences in the type of experience and capacity that is required to own, develop and/or sponsor the variety of housing development activities eligible under the HOME program. Therefore, "experience in having completed similar projects" is different for development/management of rental housing and development/sale of housing for homebuyers.

Because the purpose of the CHDO capacity is to ensure that paid staff possess the necessary expertise, CHDOs must have their own professional staffs. This means that the key staff required to demonstrate CHDO capacity cannot be:

Municipal, county or state employees; or Consultants (paid or volunteer).

Consultants (paid or volunteer).

Financial standards: CHDO's must have financial accountability standards that conform to 24 CFR 84.21, "Standards for Financial Management Systems."

ELIGIBLE USES OF HOME FUNDS BY CHDOs: With PJ approval, CHDOs may use HOME funds for all eligible HOME activities. However, only certain types of activities count toward the minimum 15 percent set-aside.

Eligible set-aside activities include the following when carried out by a CHDO acting as an owner, sponsor or developer:

Acquisition and/or rehabilitation of rental housing,

New construction of rental housing,

Acquisition and/or rehabilitation of homebuyer properties,

New construction of homebuyer properties, and

Direct financial assistance to purchases of HOME-assisted housing sponsored or developed by a CHDO with HOME funds.

Ineligible: The following activities are ineligible set-aside activities, but may be carried out by the CHDO as a sub recipient:

- Tenant-based rental assistance (TBRA),
- Homeowner rehabilitation, and
- Brokering or other real estate transaction.

CHDO SET-ASIDE ROLES: OWNER, DEVELOPER AND SPONSOR

CHDO set-aside funds may be used by CHDO's for those HOME activities where the CHDO acts as the developer, sponsor and/or owner of the housing.

Owner: A CHDO that is an "owner" of rental housing is defined at §92.300(a)(2). The CHDO is an "owner" when it holds valid legal title to or has a long-term (99-year minimum) leasehold interest in a rental property.

The CHDO must own the HOME project during development and throughout the period of affordability, and is required to oversee all aspects of the development process.

At a minimum, the CHDO can own the property and hire a project manager or contract with a development contractor to oversee all aspects of the development.

The New HOME Rule considers a CHDO an "owner" when it acquires housing that is in standard condition (and meets the property standards at §92.251) provided it owns the housing throughout the affordability period.

Developer—Rental Housing: A CHDO that is a "developer" of rental housing is defined at §92.300(a)(3).

The CHDO is the owner (in fee simple absolute or long-term ground lease) and developer of the project and must be in sole charge of all aspects of the development process, including obtaining zoning, securing non-HOME funds, selecting contractors, overseeing the progress of work, and determining reasonableness of costs.

The CHDO must own the HOME assisted housing during the development process and throughout the period of affordability. This is a change from the pre-2013 Rule in that the CHDO must own the property; it no longer has the option to be under contract with an owner to develop the property.

Developer— Homeownership Housing: The homeownership housing is "developed" by the CHDO if it is the owner (in fee simple absolute) and developer of new housing that will be constructed or existing substandard housing that is owned or will be acquired by the CHDO and rehabilitated for sale to low-income families, in accordance with §92.254.

To be the "developer," the CHDO must arrange financing for the project and be in sole charge of construction.

As part of its set-aside funds, the CHDO can provide direct downpayment assistance to a buyer of the housing it has developed with HOME funds in an amount not to exceed 10 percent of the amount of HOME development funds. In this role, the CHDO is not a subrecipient. This definition is very similar to the pre-2013 definition.

Sponsor--- Rental Housing: The New HOME Rule provides two definitions of a “sponsor” of HOME assisted rental housing:

1. A CHDO “sponsors” rental housing when the property is “owned” or “developed” by:
 - a. A subsidiary of the CHDO (in which case the subsidiary, which may be a for-profit or nonprofit organization, must be wholly owned by the CHDO);
 - b. A limited partnership (in which the CHDO or its wholly owned subsidiary must be the sole general partner); or
 - c. A limited liability company (in which the CHDO or its wholly owned subsidiary must be the sole managing member).

If the limited partnership or limited liability company agreement permits the CHDO to be removed as sole general partner or sole managing member, respectively, the agreement must require that the removal be “for cause” and that the CHDO must be replaced by another CHDO. In addition, HOME funds must be provided to the entity that owns the project. [*§92.300(a)(4)*]

2. A CHDO “sponsors” HOME-assisted rental housing in situations in which the CHDO owns and develops the housing and agrees to convey the housing to a private nonprofit organization (that does not need to be a CHDO but cannot be created by a governmental entity) at a predetermined time after completion of the project development. Such arrangements typically occur when a CHDO has development expertise and the nonprofit organization has the capacity to own and operate the housing. The CHDO is required to own the property before the development phase of the project and is required to select the nonprofit organization before entering into an agreement with the PJ that commits HOME funds to the project. The nonprofit organization assumes the CHDO’s HOME obligation (including any repayment of loans) for the project. If the property is not transferred to the nonprofit organization, the CHDO sponsor remains liable for the HOME assistance and the HOME project. [*§92.300(a)(5)*]

Sponsor--- Homeownership Housing: Under the pre-2013 HOME Rule a CHDO was able to serve as a “sponsor” of homebuyer housing. There is no equivalent “sponsor” role for homebuyer housing in the 2013 New HOME Rule.